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ABSTRACT

This constitutional casebook is the outcome of the P.A.T.C.H. Law Program of the Northport-East Northport Union Free School District in New York. The casebook provides students and teachers in grades 7, 8, 11, and 12 with a summary review of the 22 cases mentioned in the New York State Regents' 11th grade "U.S. History and Government" syllabus and an additional 29 cases that support a better understanding of U.S. hisotry and government. Summary charts outline the syllabus and include the constitutional cases mentioned in it as well as additional cases that enrich students' knowledge. Among the cases reviewed are landmark decisions such as Marbury v. Madison, McCulloch v. Maryland, Dred Scott v. Sanford, Plessy v. Ferguson, Brown v. Board of Education of Topeka, Mapp v. Ohio, and Gideon v. Wainwright. For each case, the casebook lists the citation number, the judicial concepts involved, the facts of the case, the legal issues, and the court's opinion. The appendices include a pre- and post-test, a glossary of constitutional terms, and the U.S. Constitution. (JD)

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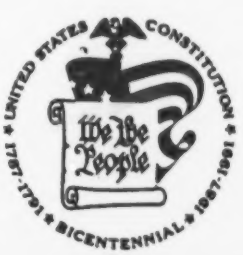
A Case Study Review for U.S. History and Government

A STUDENT and TEACHER GUIDE



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U.S. SUPREME COURT DECISIONS

A Case Study Review
for
U.S. History and Government

A STUDENT and TEACHER GUIDE

**A publication of Project P.A.T.C.H of
the Northport-East Northport U.F.S.D. and
the Law Youth and Citizenship Program
of the New York State Bar Association
and State Education Department**

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This project will remain a memorable experience for many *American History Through Constitutional Law* students. The project was made possible because of their enthusiasm and dedication. They spent hundreds of hours bringing this guide together. I would like to thank my fellow classmates who negotiated, researched, developed, wrote, typed, and edited the fifty-one Supreme Court case summaries in the text. I would also like to thank:

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***Case Cited in 11th Grade U.S. History & Government Syllabus.**

INTRODUCTION

The P.A.T.C.H. Law Program had its beginnings in the Northport-East Northport Union Free School District in 1969. A teacher and his students started to piece together a legal course of study that would demystify the law for students, as well as teachers. From this simple start, *Law Studies* has grown tremendously in Northport.

In 1978, P.A.T.C.H. introduced *American History Through Constitutional Law* as an 11th grade course of study. This teacher/student-created instructional program complies with and enhances New York State Regents' new 11th grade mandated *U.S. History and Government* syllabus.

The *Con Law* course, as it is known today, brings history and the Constitution to life in the classroom. Four times a year, the classroom becomes a replicate of the Supreme Court of the United States. In this legal learning laboratory, constitutional cases are re-argued by students before a panel of three justices. The panel can be made up of students from local law schools, teachers, lawyers, police, school administrators, and parents. Students are required to submit a one-page certiorari brief, outlining their oral argument. (Please see Appendix A for the format to be used for a written certiorari brief.) Students are given five minutes to present the case. Justices may interrupt the students at any time and ask historical or constitutional questions about the case.

The new 11th grade *U.S. History and Government* syllabus cites twenty-two Supreme Court cases. P.A.T.C.H. staff and students saw the cited cases as an excellent opportunity to conduct a student research/review project and create a resource text that would summarize these cases.

This constitutional casebook is the outcome of that project. It has been prepared by 11th grade students. It provides teachers and students in grades 7, 8, 11, and 12, with a summary review of the twenty-two cases mentioned in the new 11th grade curriculum and an additional twenty-nine cases that support a better understanding of United States history and government.

The P.A.T.C.H. students and staff have enjoyed the challenge that this project has provided them. We hope the casebook will become a resource students and teachers will use to better understand the role that law, the Supreme Court, and the Constitution have on United States history.

Thomas J. O'Donnell
Director, Project P.A.T.C.H.

PRE-POST EVALUATION OF CONSTITUTIONAL CASEBOOK

SECTION A: MULTIPLE CHOICE: (Answers Can Be Found in Appendix A.)

DIRECTIONS: In the Answer Section below, Place the letter a, b, c, or d that best answers the multiple choice question.

1. The Supreme Court of the United States is a: **a.** Trial Court **b.** Court of Claims **c.** District Court **d.** Appeals Court.

2. Supreme Court Justices can offer what kind of an opinion in a case before them?
   a. Dissenting Opinion **b.** Concurring Opinion **c.** Majority Opinion **d.** All of the Preceding.

3. A Supreme Court Justice serves for: **a.** Life (If he or she wants) **b.** Only 8 Years **c.** 13 Years **d.** 6 Years.

4. In *Brown v. Board of Education* (1954), the Court decided to: **a.** Improve Textbooks **b.** Desegregate Our Schools **c.** Establish Free Public Schools **d.** Provide for "Separate But Equal" Schools.

5. In *Korematsu v. United States* (1944), the Court upheld the relocation of what group of people to inland relocation camps: **a.** German Americans **b.** Italian Americans **c.** Japanese Americans **d.** Jewish Americans.

6. In *Dennis v. United States* (1951), the Supreme Court of the United States upheld the conviction of members of what party for advocating the forceful overthrow of the American Government: **a.** Republican Party **b.** Democratic Party **c.** Liberal Party **d.** Communist Party.

7. In *Roe v. Wade* (1973), the Court dealt with what women rights issue: **a.** Equal Job/Equal Pay **b.** Abortion **c.** Sex Discrimination **d.** Maternity Leave.

8. In *Schechter v. United States* (1935), Congress exceeded its power to regulate the flow of which commerce: **a.** Wheat **b.** Steel **c.** Sick Chickens **d.** Endangered Species.

9. In *Santa Clara County v. Southern Pacific Railroad Co.* (1886), the Court ruled the equal protection clause of the Fourteenth Amendment applied to: **a.** Corporations **b.** Unions **c.** People **d.** Railroad Workers.

10. In *Schenck v. United States* (1919), the Court ruled freedom of speech and press may be constrained if it: **a.** Is Obscene **b.** Is Disruptive **c.** Creates a Clear and Present Danger **d.** Is Funny.

11. In *Watkins v. United States* (1957), the Court ruled that congressional investigations must: **a.** Aid their Legislative Functions **b.** Be Pertinent to the Subject Under Investigation **c.** Spell Out their Purpose **d.** All of the Above.

12. In *Lochner v. New York* (1905), the Court struck down a New York State law which limited: **a.** Car Insurance **b.** Safety Requirements **c.** How a Bakery Could Open on Sunday **d.** Hours a Person Could Work.

13. In *Ex Parte Merryman* (1861), President Lincoln suspended the constitutional protection of writs of habeas corpus because: **a.** They Were Bad Law **c.** They Interfered With the Civil War Effort **b.** They Violated Human Rights **d.** They Were Outdated.

14. In *P.A.R.C. v. Penn* (1971), the Court ordered, through a consent agreement, that schools must provide:
   a. Appropriate Public Education for Mentally Retarded Children **c.** Smaller Class Sizes
   b. Teachers With Free Time During the School Day **d.** Free Hot Lunches for All Students.

15. In *Munn v. Illinois* (1877), the Court held private property reserved for public use was subject to:
   a. No Regulations **b.** Government Regulations **c.** Public Sale **d.** Amicus Curiae.

SECTION B: ANSWERS:

1. _____	4. _____	7. _____	10. _____	13. _____
2. _____	5. _____	8. _____	11. _____	14. _____
3. _____	6. _____	9. _____	12. _____	15. _____

SUMMARY CHARTS OF CASES REVIEWED

The following charts summarize topically the 11th Grade U.S. History and Government syllabus.

The charts include every constitutional case mentioned in the syllabus, as well as additional cases that enrich teachers' and students' knowledge.

(Charts designed by Sandy Scarpinito, American History through Constitutional Law Instructor.)

UNIT\ SECT.	MAJOR IDEAS	CASES LISTED IN SYLLABUS		CONSTITUTIONAL CONCEPTS	PAGE
1- IIB2	Wartime Measures	*Ex Parte Merryman*	(1861)	Habeas Corpus/ Executive Power v. Civilian Due Process	3
2- IC4	Supreme Court Interpretation of the 14th Amendment	*Munn v. Illinois*	(1877)	Public - Private Property/Free Enterprise v. State Rights	4
		Santa Clara v. SouthernPacific	(1886)	Corporate Tax/State Power to Tax v. Equal Protection	4
		Lochner v. New York	(1905)	Work Hrs. Per Wk./Individual Property Rights v. "Police Powers"	9
		Muller v. Oregon	(1908)	Employee-Employer Contracts/Fourteenth v. Tenth Amend.	10
IE4	Separate But Equal	*Plessy v. Fergerson*	(1896)	Separate But Equal/Equal Protection v. State Rights	8
		Brown v. Bd./Ed. of Topeka	(1954)	School Segregation/Equal Protection v. State Rights	15
IIF4	Anti-Trust	*Munn v. Illinois*	(1877)	Public - Private Property/Free Enterprise v. State Rights	4
IIIC7	Agrarian Protest	*Munn v. Illinois*	(1877)	Public - Private Property/Free Enterprise v. State Rights	4
		Wabash Railway v. Illinois	(1886)	Commerce Clause/Individual Property Rights v. State Rights	5
		Chicago Railway v. Minnesota	(1889)	Railroad Rates/Procedural Due Process v. State Rights	6
IIIC7c	National Government / Response / ICC	*Gibbons v. Odgen*	(1824)	Interstate Commerce/Federal Supremacy v. State Rights	2
		United States v. E.C.Knight Co.	(1895)	Anti-Trust Acts/Congressional Power v. Free Enterprise	7
		In Re Debs	(1895)	Union Strikes/Commerce Clause v. First & Fourteenth Amend.	7
		Schechter Poultry Corp. v. U.S.	(1935)	"Sick Chickens"/Congressional v. Presidential Power	13
3- ID4a	Corporate v. Individual Rights	*Lochner v. New York*	(1905)	Work Hrs. Per Wk./Individual Property Rights v. "Police Powers"	9
		Muller v. Oregon	(1908)	Employee-Employer Contracts/Fourteenth v. Tenth Amend.	10
IIB4	Wartime Constitutional Issues	*Debs v. United States*	(1919)	Clear & Present Danger/Free Speech v. War Powers	12
		Schenck v. United States	(1919)	Clear & Present Danger/Free Speech v. War Powers	12
4- IC2	Science & Religion	Scopes Trial (Not Reviewed)	(1925)	Teaching of Evolution /First Amendment	—
IIB7	Controversy/ New Deal	*Schechter Poultry Corp. v. U.S.*	(1935)	"Sick Chickens"/Congressional v. Presidential Powers	13
5- IC6	War Impact on Minorities	*Korematsu v. United States*	(1944)	Japanese Relocation/Equal Protection v. Executive Powers	14
IID	Cold War	*Dennis v. United States*	(1951)	Overthrow of Government/Free Speech v. National Security	14
		Watkins v. United States	(1957)	Self-Incrimination/Un-American Activities/Right to Remain Silent	15
		Yates v. United States	(1957)	Communist Party/Free Speech v. CongressionalPower	16
6- IIC2	Civil Rights	*Brown v. Bd./Ed. of Topeka*	(1954)	School Segregation/Equal Protection v. State Rights	15
IIIA2g	Rights of Disabled	*P.A.R.C. v. Pennsuylvania*	(1971)	Education for the Handicapped/Equal Protection v. State Rights	23
		Mills v. Bd./Ed. /Dist. Columbia	(1972)	Exceptional Children Education/Equal Protection v. State Rights	23
IIIC4c3	Equality for Women	*Roe v. Wade*	(1973)	Abortion/Right to Privacy v. State	24

UNIT/ SECT.	MAJOR IDEAS	ADDITIONAL CASES		CONSTITUTIONAL CONCEPTS	PAGE
1- IA4	Declaration of Independence	*Dorr v. United States*	(1904)	Jury Trial/Rights of the Accused v. Congressional Power	9
IB	13 Enduring Issues	*Marbury v. Madison*	(1803)	Judicial Review/Judicial v. Executive Power	1
	Democracy: Its Rights & Freedoms	*W.Virginia Bd./Ed.v. Barnette*	(1943)	Flag Salute/State Rights v. Establishment Clause	13
		Engel v. Vitale	(1962)	School Prayer/Establishment Clause v. State Rights	17
		Abington SD v. Schempp	(1963)	Bible Readings/Reserved Clause v. Establishment Clause	17
		Epperson v. Arkansas	(1968)	Teaching of Evolution/Establishment Clause v. State Rights	20
		Wallace v. Jaffree	(1985)	Moment of Silence/State Rights v. Establishment	28
ID1	Civil Liberties	*Weeks v. United States*	(1914)	Search & Seizure/"Police Powers"/Exclusionary Rule	11
		Mapp v. Ohio	(1961)	Warrantless Search/Right to Privacy v. "Police Powers"	16
	Criminal Liberties	*Gideon v. Wainwright*	(1963)	Right to Counsel/Rights of the Accused v. State Rights	18
		Escobedo v. Illinois	(1964)	Right to an Attorney/Self-Incrimination/Rights of the Accused	19
		Miranda v. Arizona	(1966)	Self-Incrimination/Rights of the Accused v. "Police Powers"	20
	Equality	*Plessy v. Ferguson*	(1896)	Separate But Equal/Equal Protection v. State Rights	8
		Brown v. Bd./Ed. of Topeka	(1954)	School Segregation/Equal Protection v. State Rights	15
		Swann v. Charlotte - Mecklenburg County Bd./Ed.	(1971)	Busing/School Desegregation	23
		U./California Regents v. Bakke	(1978)	Affirmative Action/State Rights v. Equal Protection	26
	Rights of Women	*Roe v. Wade*	(1973)	Abortion/Right to Privacy v. State	24
	Rights of Ethnic/Racial Groups	*Dred Scott v. Sanford*	(1857)	Slavery/Question of Citizenship v. Fifth Amendment/Property	2
		ChaeChanPing v. United States	(1889)	Treaties/Congressional Powers/Immigration	6
	Presidential Powers	*Korematsu v. United States*	(1944)	Japanese Relocation/Equal Protection v. Executive Powers	14
		United States v. Nixon	(1974)	Watergate/Federal Due Process v. Executive Privilege	25
	Avenue of Representation	*Oregon v. Mitchell*	(1970)	Right to Vote/State Rights v. Equal Protection	22
	Property Rights	*Munn v. Illinois*	(1877)	Public - Private Property/Free Enterprise v. State Rights	4
IIA3	States Rights v. Federal Supremacy	*McCulloch v. Maryland*	(1819)	Necessary & Proper/Federal Supremacy v. State	1
		Gibbons v. Odgen	(1824)	Interstate Commerce/Federal Supremacy v. State Rights	2
	Segregation	*Plessy v. Ferguson*	(1896)	Separate But Equal/Equal Protection v. State Rights	8
		Brown v. Bd./Ed. of Topeka	(1954)	School Segregation/Equal Protection v. State Rights	15
IIB2	Wartime Measures	*Schenck v. United States*	(1919)	Clear & Present Danger/Free Speech v. War Powers	12
		Korematsu v. United States	(1944)	Japanese Relocation/Equal Protection v. Executive Powers	14

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UNIT/ SECT.	MAJOR IDEAS	ADDITIONAL CASES	CONSTITUTIONAL CONCEPTS	PAGE
2- IIF3	Railroad Pooling/Rates	*Wabash, St. Louis & Pacific Railway Co. v. Illinois* (1886)	Commerce Clause/Individual Property Rights v. State Rights	5
IIF4	Anti-Trust	*United States v. E.C. Knight Co.* (1895)	Anti-Trust Acts/Congressional Powers v. Free Enterprise	7
		Swift & Co. v. United States (1905)	Price Fixing/Free Enterprise v. Congressional Powers	10
IIIA3e	Child Labor	*Hammer v. Dagenhart* (1918)	Child Labor/Congressional Powers v. State Rights/Commerce	11
IIIB3	Reaction to Immigration	*ChaeChanPing v. United States* (1889)	Treaties/Congressional Powers/Immigration	6
3- ID4a	Corporate v. Individual Rights	*Hammer v. Dagenhart* (1918)	Child Labor/Congressional Powers v. State Rights/Commerce	11
IIB3	Spanish American War	*Dorr v. United States* (1904)	Jury Trial/Rights of the Accused v. Congressional Power	9
IID4	Wartime Constitutional Issues	*Korematsu v. United States* (1944)	Japanese Relocation/Equal Protection v. Executive Powers	14
4- IC2	Science & Religion	*Epperson v. Arkansas* (1968)	Teaching of Evolution/Establishment Clause v. State Rights	20
6- IIIB 3d5	Court Decision on Civil Rights Since 1948	*Heart of Atlanta Motel v. United States* (1964)	Discrimination/Individual Property Rights v. Congressional Powers/Commerce Clause	19
		Green v. County School Board of New Kent County, Va. (1968)	Desegregation/Equal Protection v. State Rights	21
		Swann v. Charlotte - Mecklenburg County Bd./Ed. (1971)	Busing/School Desegregation	23
		U. California Regents v. Bakke (1978)	Affirmative Action/State Rights v. Equal Protection	26
IVA5	Student Protest/Vietnam	*Tinker v. Des Moines SD* (1969)	Symbolic Speech/Student Right to Free Speech v. State Rights	21
VA	Nixon as President	*Oregon v. Mitchell* (1970)	Right to Vote/State Rights v. Equal Protection	22
		N.Y. Times Co. v. United States (1971)	Pentagon Papers/Free Press v. Executive Power	22
VA3	Watergate	*United States v. Nixon* (1974)	Watergate/Federal Due Process v. Executive Privilege	25
VC4	Social Issues / Modern Times	*Roe v. Wade* (1973)	Abortion/Right to Privacy v. State	24
		Goss v. Lopez (1975)	Suspension/State Rights v. Student Due Process	25
		Bd./Ed., Island Trees v. Pico (1982)	Book Banning/Reserved Clause v. First Amendment	27
		New Jersey v. T.L.O. (1985)	Search & Seizure/State Rights v. Student Due Process	27
		Wallace v. Jaffree (1985)	Moment of Silence/State Rights v. Establishment Clause	28
		Hazelwood SD v. Kuhlmeier (1988)	Censorship/State Rights v. Students' Free Press Rights	29

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Supreme Court Cases

Marbury v. Madison

Citation: 5 U.S. 137 (1803)

Concepts: Judicial v. Executive Power/ Judicial Review

Facts
In his last few hours in office, President John Adams made a series of "midnight appointments" to fill as many government posts as possible with Federalists. One of these appointments was William Marbury as a federal justice of the peace. However, Thomas Jefferson took over as President before the appointment was officially given to Marbury. Jefferson, an Anti-Federalist, instructed Secretary of State James Madison to not deliver the appointment. Marbury sued Madison to get the appointment he felt he deserved. He asked the Court to issue a *writ of mandamus*, requiring Madison to deliver the appointment. The Judiciary Act, passed by Congress in 1789, permitted the Supreme Court of the United States to issue such a writ.

Issue
Whether the Supreme Court of the United States has the power, under Article III, Section 2, of the Constitution, to interpret the constitutionality of a law or statute passed by Congress.

Opinion
The Court decided that Marbury's request for a *writ of mandamus* was based on a law passed by Congress that the Court held to be unconstitutional. The Court decided unanimously that the federal law contradicted the Constitution, and since the Constitution is the Supreme Law of the Land, it must reign supreme. Through this case, Chief Justice John Marshall established the power of judicial review: the power of the Court not only to interpret the constitutionality of a law or statute but also to carry out the process and enforce its decision.

This case is the Court's first elaborate statement of its power of judicial review. In language which remains relevant today, Chief Justice Marshall said, "It is emphatically the province and duty of the judicial department to say what the law is." Nowhere in the Constitution does the Court have the power that Chief Justice Marshall proclaimed. Despite there being no mention of such power in the Constitution, since 1803, our Nation has assumed the two chief principles of this case: that when there is a conflict between the Constitution and a federal or state law, the Constitution is supreme; and that it is the job of the Court to interpret the laws of the United States.

McCulloch v. Maryland

Citation: 17 U.S. 316 (1819)

Concepts: "Necessary & Proper" Clause/Federal Supremacy v. State Rights

Facts
The state of Maryland brought an action against James William McCulloch, a cashier in the Maryland branch of the Bank of the United States, for not paying a tax the state had imposed on the United States Bank.

Issue
Whether the state of Maryland had the right to tax a federal agency which was properly set up by the United States Congress.

Opinion
In a unanimous decision, the Supreme Court of the United States ruled that the "power to tax involves the power to destroy," and that the federal government's national bank was immune to state taxation. The Court reasoned that Congress could set up a United States Bank and write laws "necessary and proper" to carry out its constitutional power to coin and regulate money.

Gibbons v. Ogden

Citation: 22 U.S. 1 (1824)

Concepts: Interstate Commerce/Federal Supremacy v. State Rights

Facts
Robert Livingston secured from the New York State Legislature an exclusive twenty-year grant to navigate the rivers and other waters of the State. The grant further provided that no one should be allowed to navigate New York waters by steam without a license from Livingston and his partner, Robert Fulton, and any unlicensed vessel should be forfeited to them. Ogden had secured a license for steam navigation from Fulton and Livingston. Gibbons originally had been partners with Odgen but was now his rival. Gibbons was operating steamboats between New York and New Jersey under the authority of a license obtained from the United States. Ogden petitioned the New York court and obtained an injunction ordering Gibbons to stop operating his boats in New York waters.

Issue
Whether the New York statute that prohibited vessels licensed by the United States from navigating the waters of New York was unconstitutional and, therefore, void.

Opinion
Writing for the Supreme Court of the United States, Justice Marshall said that the injunction against Gibbons was invalid because the monopoly granted by the New York statute conflicted with a valid federal law. The Court used this case to put forth the position that Congress can legislate and regulate *all* matters of interstate commerce as long as there is some commercial connection with another state. While interstate commerce is regulated by Congress, power to regulate "completely internal " commerce (trade carried on in a state that does not affect other states) is reserved to the states.

Dred Scott v. Sanford

Citation: 60 U.S. 393 (1857)

Concepts: Slavery/Question of Citizenship v. Fifth Amendment/Property Rights

Facts
Dred Scott, a slave, was taken by his owner, Sanford, into northern federal territory. Scott felt that he was free because of the *Missouri Compromise of 1820*, which excluded slavery from specified

portions of United States territories. When he came back to Missouri, Scott sued his owner for his freedom.

Issue
Whether Dred Scott, a slave, was a citizen of the United States and legally entitled to use the courts to sue.

Opinion
The Supreme Court of the United States ruled that slaves were property, not citizens and, therefore, Dred Scott was not entitled to use the courts. The Court focused on the rights of the owner, not the slave, saying that black people had no rights that white people were bound to respect. Justice Taney said that freeing Scott would be a clear violation of the Fifth Amendment because it would amount to depriving Sanford of his property without due process of law. He also said that Congress had no power to prohibit slavery in the territory and that the *Missouri Compromise* was unconstitutional.

[Justice Taney is considered one of the most prominent chief justices; however, *Dred Scott* has been widely criticized throughout history. Justice Taney believed that if he decided the case in favor of Scott, immediate civil war would have resulted. Associate Justice Curtis of Massachusetts, a liberal, disagreed so strongly with Taney's decision that he left the Court.]

Ex Parte Merryman

Citation: 17 F. Cas. 144, No. 9487 (Cir. Ct., D. Maryland, 1861)

Concepts: Writ of Habeas Corpus/Executive Power v. Civilian Due Process

Facts
John Merryman favored the South in the Civil War. A month after the war began in 1861, he was arrested and jailed for burning railroad bridges. His arrest was based on a vague suspicion of treason. There was no warrant issued, nor were there any witnesses nor proof of any illegal action. Merryman wrote to Chief Justice Roger Taney, asking for a writ of habeas corpus so that his case would be tried in a civilian court. Chief Justice Taney issued the writ. However, the military commander in charge of Merryman's trial ignored the writ, citing President Lincoln's suspension of habeas corpus in certain parts of the country.

Issue
Whether the President of the United States has the power to suspend a writ of habeas corpus without the consent of Congress; and whether Merryman was deprived of life, liberty, or property without due process.

Opinion
Chief Justice Taney, who was holding circuit court (which Supreme Court justices did then), challenged President Lincoln's suspension of the writ of habeas corpus. The Chief Justice believed that the President drew too much power for himself without the consent of Congress. He criticized the President for improperly substituting military authority for civilian authority and emphatically warned that the people of the United States were "no longer living under a government

of laws, but ... at the will and pleasure of the army officer in whose military district they happen to be found."

[Eventually, Merryman was handed over to civilian authorities, and Congress gave the President the power, which he had previously drawn to himself, to suspend the privilege of habeas corpus at his discretion during wartime].

Munn v. Illinois

Citation: 94 U.S. 113 (1877)

Concepts: Public - Private Property/Free Enterprise v. State Rights

Facts
Midwestern farmers felt that they were being victimized by the exorbitant freight rates they were forced to pay to the powerful railroad companies. As a result, the state of Illinois passed a law that allowed the state to fix maximum rates that railroads and grain elevator companies could charge.

Issue
Whether the regulation of railroad rates by the state of Illinois deprived the railroad companies of property without due process of law.

Opinion
The Supreme Court of the United States upheld the Illinois law because the movement and storage of grain were considered to be closely related to public interest. This type of economic activity could be governed by state legislatures, whereas purely private contracts could only be governed by the courts. The Court held that laws affecting public interest could be made or charged by state legislatures without interference from the courts. The Court said, "For protection against abuse by legislatures, the people must resort to the polls, not the courts."

Santa Clara County v. Southern Pacific Railroad

Citation: 118 U.S. 394 (1886)

Concepts: Corporate Tax/State Power to Tax v. Equal Protection

Facts
Santa Clara County taxed the Southern Pacific Railroad. However, the corporation refused to pay the taxes, claiming that the taxes were assessed at the full monetary value without the discount that was given to individual property owners for extremely large mortgages. The Southern Pacific claimed that under the Fourteenth Amendment, their corporation, which should be treated as an individual, was denied equal protection under the law.

Issue
Whether corporations should be treated as individuals under the Fourteenth Amendment; and whether the state of California denied Southern Pacific Railroad equal protection under the law.

Opinion
The Supreme Court of the United States agreed with the railroad and upheld the lower court decision that Santa Clara County wrongfully taxed the Southern Pacific Railroad. Under the Fourteenth Amendment of the Constitution, corporations are treated as individuals; therefore, their taxes should be assessed at a smaller value, the same way it is done for individual property owners.

[This case is often cited in other cases because it stands for the principle that the word *person* in the Fourteenth Amendment applies to corporations as well as natural persons and both are entitled to the equal protection of the laws under the Constitution. Thus, corporations are now considered legal persons and can sue and be sued.]

Wabash, St. Louis & Pacific Railway Co. v. Illinois

Citation: 118 U.S. 557 (1886)

Concepts: Individual Property Rights v. State Rights/Commerce Clause

Facts
An Illinois statute imposed a penalty on railroads that charged the same or more money for passengers or freight shipped for shorter distances than for longer distances. The railroad in this case charged more for goods shipped from Gilman, Illinois, to New York, than from Peoria, Illinois, to New York, when Gilman was eighty-six miles closer to New York than Peoria. The intent of the statute was to avoid discrimination against small towns not served by competing railroad lines and was applied to the intrastate (within one state) portion of an interstate (two or more states) journey.

Issue
Whether a state government has the power to regulate railroad prices on that portion of an interstate journey that lies within its borders.

Opinion
The Supreme Court of the United States held the Illinois statute to be invalid and that the power to regulate interstate railroad rates is a federal power which belongs exclusively to Congress and, therefore, cannot be exercised by individual states. The Court said the right of continuous transportation from one end of the country to the other is essential and that states should not be permitted to impose restraints on the freedom of commerce. In this decision, the Court gave great strength to the commerce clause of the Constitution by saying that states cannot impose regulations concerning price, compensation, taxation, or any other restrictive regulation interfering with or seriously affecting interstate commerce.

[One year after *Wabash*, Congress enacted the Interstate Commerce Commission (ICC). This commission had the power to regulate interstate commerce.]

Chae Chan Ping v. United States

Citation: 130 U.S. 581 (1889)

Concepts: Treaties/Congressional Powers/Immigration

Facts

Between 1848, when gold was discovered in California, and the time of this case, the number of Chinese laborers in the United States greatly increased. During this short time, the Chinese immigrant population grew to become seventeen percent of the California population. This threatened American workers' jobs, forcing Congress to pass the Chinese Exclusion Act of 1882. The Act permitted the United States to regulate the flow of Chinese immigrants into the United States. Chae Chan Ping, a subject of the Emperor of China and a laborer by trade, lived in San Francisco, California. He left for China in 1875, but was not allowed to return to the United States in 1888 because of the new legislation. Ping contended that the Act violated existing treaties with China and that he should be allowed to re-enter the United States.

Issue

Whether an act of Congress that excluded Chinese laborers from the United States was a constitutional exercise of congressional power even though the act conflicted with an existing treaty with China.

Opinion

The Supreme Court of the United States ruled that Congress did have the right to deny Chae Chan Ping's re-entry into the United States. Saying that treaties are equivalent to acts of Congress and can be repealed or amended, the Court reasoned that it was permissible to exclude the Chinese because the preservation of independence and the security against foreign aggression are the highest duties of every nation. All other considerations are subordinate. Congress must have the power to do whatever it may deem essential in order to maintain and protect the United States. Such power includes the control over the immigration of aliens and their return to the United States. The Court decided that Congress had the authority to determine whether certain foreigners should be excluded.

Chicago, Milwaukee & St. Paul Railway Co. v. State of Minnesota

Citation: 134 U.S. 418 (1890)

Concepts: Railroad Rates/Procedural Due Process v. State Rights

Facts

In 1887, the state of Minnesota passed an act to regulate common carriers (i.e railroads). The act declared that any unreasonable charge for service in the transportation of passengers or property was to be unlawful and prohibited. Certain trade unions complained that the Chicago, Milwaukee and St. Paul Railway charged some shippers up to four cents per gallon for the transportation of milk. They believed that these prices were unreasonable and unlawful under the act.

Issue

Whether states have the authority to regulate the rates which railroads charge for transportation of passengers or goods.

Opinion
The Supreme Court of the United States invalidated the Minnesota law because it authorized administrative rate-making without providing for judicial review (a hearing). The Court held that the state of Minnesota has the power to regulate and question the reasonableness of rates; however, the railroads were entitled to more procedural protection. The Court upheld the state railway commission's right to regulate railroad rates but the commission had to give the railroads an opportunity to question and be heard if the rates established by the commission were unreasonable.

In Re Debs

Citation: 158 U.S. 564 (1895)

Concepts: Union Strikes/Commerce Clause v. First & Fourteenth Amendments

Facts
Eugene V. Debs, an American railway union officer and one of the leaders of the Pullman Railroad Car workers' strike in 1894, refused to honor a federal court "injunction" ordering him to halt the strike. Debs appealed his "contempt of court" conviction.

Issue
Whether the federal government has the constitutional authority to stop railroad workers from striking.

Opinion
The Supreme Court of the United States, in a unanimous decision, upheld the authority of the federal government to halt the strike. The Court reasoned that the federal government has "enumerated powers" found in Article 1, Section 8, to "regulate commerce ... among the several states," and to establish post offices and post roads. When the American Railway Union struck, it interfered with the railroad's ability to carry commerce and mail which benefited the needs and "general welfare" of all Americans.

United States v. E.C. Knight Co.

Citation: 156 U.S. 1 (1895)

Concepts: Anti-Trust Acts/Congressional Power v. Free Enterprise

Facts
The Sherman Anti-Trust Act, passed by Congress in 1890, was an attempt to limit the growth of corporate power. Prior to this case, the American Sugar Refining Co., through stockholder agreements, purchased stock in smaller companies and eventually controlled 90% of the sugar processed in the United States. The federal government regarded the acquisition of the sugar refining companies as an illegal restraint of interstate commerce.

Issue
Whether Congress has the authority to regulate manufacturing; and whether the Sherman Anti-Trust Act outlawed manufacturing monopolies.

Opinion
The Supreme Court of the United States believed that there were certain aspects of economic life that should be regulated by the federal government and other aspects that should be left to the states to regulate. Here, where the federal government sued under the Sherman Act to break up the large sugar refining monopoly of Knight, the Court held that the federal government could not regulate refineries since they were "manufacturing operations" that were not directly related to interstate commerce. The Court reasoned that the states, under the Tenth Amendment, should have the right reserved to them to regulate "local activities," such as manufacturing. [In subsequent cases, the Court modified its position and permitted Congress greater regulation of commerce.]

Plessy v. Ferguson

Citation: 163 U.S. 537 (1896)

Concepts: Separate But Equal/Equal Protection v. State Rights

Facts
In 1892, Piessy purchased a first class ticket on the East Louisiana Railway, from New Orleans to Covington, Louisiana. Plessy, who was of racially mixed descent (one-eighth black and seven-eighths Caucasian), was a United States citizen and a resident of the state of Louisiana. When he entered the train, he took a seat in the coach where only whites were permitted to sit. He was told by the conductor to leave the coach and to find another seat on the train where non-whites were permitted to sit. Plessy did not move and was ejected with force from the train. Plessy was sent to jail for violating the Louisiana Act of 1890, which required railway companies to provide "separate but equal" accommodations for white and black races. Plessy argued that this law was unconstitutional.

Issue
Whether laws which provided for the separation of races violated the rights of blacks as guaranteed by the equal protection clause of the Fourteenth Amendment.

Opinion
The Supreme Court of the United States held that the Louisiana Act, which stated that "all railway companies were to provide equal but separate accommodations for white and black races" did not violate the Constitution. This law did not take away from the federal authority to regulate interstate commerce, nor did it violate the Thirteenth Amendment, which abolished slavery. Additionally, the law did not violate the Fourteenth Amendment, which gave all blacks citizenship, and forbade states from passing any laws which would deprive blacks their constitutional rights. The Court believed that "separate but equal" was the most reasonable approach considering the social prejudices which prevailed at the time.

[The *Plessy* doctrine of "separate but equal" was overturned by *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), which held "separate but equal" to be unconstitutional.]

Dorr v. United States

Citation: 195 U.S. 138 (1904) **Concepts:** Jury Trial/Rights of the Accused v. Congressional Power Over Territories

Facts
After the Spanish American War in 1898, the United States obtained the Philippines, Cuba, Guam, and Puerto Rico as territories. In the Philippines, Dorr was arrested for libel. Dorr was editor of the *Manila Freedom*, a radical newspaper opposing the government. Denied a trial by jury, he lost his case and appealed to the Supreme Court of the United States claiming that his constitutional right to a trial by jury had been denied.

Issue
Whether a trial by jury is necessary in a judicial proceeding in the Philippine Islands where the accused person has been denied a jury trial.

Opinion
The Court ruled that a trial by jury in the Philippines, or in any other United States territory, is not a "constitutional necessity," and the conviction was upheld. The Court concluded that the Constitution gives Congress the power to acquire and govern new territory but does not provide for the right of trial by jury in those territories. However, Congress could pass a law requiring trial by jury in the territories. The territorial government of the Philippines did not have to provide a jury trial in criminal cases unless Congress passed legislation requiring it to do so.

Lochner v. New York

Citation: 198 U.S. 45 (1905) **Concepts:** Work Hours Per Week/Individual Property Rights v. State "Police Powers"

Facts
A New York law set limits on how many hours bakery employees could work. Lochner was convicted and fined fifty dollars for permitting an employee to work more than the lawful number of hours in one week. On appeal, Lochner claimed that the New York law infringed on his right to make employer/employee contracts.

Issue
Whether a law which limited the number of hours bakery employees were allowed to work interfered with the bakery owner's right to make employer/employee contracts.

Opinion
The Supreme Court of the United States held that even though states have the power to regulate in the areas of health, safety, morals, and public welfare, the New York law in question was not within the limits of these "police powers" of the State.

[This decision marked the beginning of the "substantive due process" era, in which the Court struck down a number of state laws that interfered with an individual's economic and property rights. It was overturned twelve years later in *Bunting v. Oregon*, 243 U.S. 426 (1917).]

Swift v. United States

Citation: 196 U.S. 375 (1905)

Concepts: Price Fixing/Free Enterprise v. Congressional Power

Facts
Under various congressional anti-trust acts, Congress had the power to prevent price fixing and monopolies. Swift and other meatpackers arranged to fix or alter the price of livestock bought and sold in Chicago, in violation of these acts. Swift argued that it was not involved in interstate commerce since the stockyard transactions were the middle part of the meatpacking process and took place only within the state.

Issue
Whether the Sherman Anti-Trust Act could bar price fixing by meat dealers within a state.

Opinion
The Supreme Court of the United States held that although the price fixing related to stockyard activities which occurred in one state, they were a part of a "stream of interstate commerce" and, therefore, could be regulated by the federal government under the commerce clause of the United States Constitution.

Muller v. Oregon

Citation: 208 U.S. 412 (1908)

Concepts: Employee-Employer Contracts/Tenth Amendment v. Fourteenth Amendment

Facts
In 1903, the state of Oregon passed a law prohibiting women from working in factories or laundries more than ten hours in any day. In 1905, a suit was filed against Curt Muller for making Mrs. E. Gotcher work more than ten hours in one day. Found guilty, Muller took his case to the Supreme Court of the United States, charging that he was wrongly convicted because the legislation of the state of Oregon was unconstitutional. He believed that his Fourteenth Amendment rights were infringed upon by his inability to make his own hours for his employees.

Issue
Whether the state of Oregon, through its regulation of women's work hours, violated the "privileges and immunities" clause of the Fourteenth Amendment by forbidding the employment of women for more than ten hours a day in laundries and factories.

Opinion
The Court held that the Oregon law that barred women (who were viewed as a weaker class and in need of special protection) from certain factory and laundry work to be correct and sustained the legislation. The Court distinguished the *Lochner* case, where an employer's "liberty to contract" outweighed the state's interest to regulate bakery employees' hours, from this case, which took into account the physical differences between men and women. The Court took judicial notice (based upon a famous brief submitted by then-lawyer, Louis D. Brandeis) of the belief that "women's physical structure and the function she performs ... justify special legislation restricting the conditions under which she should be permitted to toil."

Weeks v. United States

Citation: 232 U.S. 383 (1914) **Concepts:** Search and Seizure/"Police Powers"/ Exclusionary Rule

Facts
Fremont Weeks was suspected of using the mail system to distribute chances in a lottery, which was considered gambling and was illegal in Missouri. Federal agents entered his house, searched his room, and obtained papers belonging to him. Later, the federal agents returned to the house in order to collect more evidence and took letters and envelopes from Weeks' drawers. In both instances, the police did not have a search warrant. The materials were used against Weeks at his trial and he was convicted.

Issue
Whether the retention of Weeks' property and its admission in evidence against him violated his Fourth Amendment right to be secure from unreasonable search and seizure and his Fifth Amendment right not to be a witness against himself.

Opinion
The Supreme Court of the United States unanimously decided that as a defendant in a criminal case, Weeks had a right to be free from unreasonable search and seizure and that the police unlawfully searched for, seized, and retained Weeks' letters. The Court praised the police officials for trying to bring guilty people to punishment but said that the police could not be aided by sacrificing the fundamental rights secured and guaranteed by the Constitution.

[This decision gave rise to the "Exclusionary Rule." This meant that evidence seized in violation of the Constitution cannot be admitted during a trial.]

Hammer v. Dagenhart

Citation: 247 U.S. 251 (1918) **Concepts:** Child Labor/Congressional Powers v. State Rights/Commerce Clause

Facts
In 1916, Congress passed the Child Labor Law, which prohibited the interstate transportation of products made by companies that employed young children who worked long hours.

Issue
Whether congressional powers under the commerce clause extended far enough to prohibit the interstate transportation of products made in factories in which underage children worked.

Opinion
In a 5-4 decision, the Supreme Court of the United States held that the Child Labor Law of 1916 was unconstitutional. The Court reasoned that Congress was trying to regulate child labor laws by using the commerce clause and that the employment of children was not directly related to interstate commerce. The Court felt that Congress should not impinge upon the states' right to oversee child labor by using its power to regulate commerce so as to indirectly regulate child labor.

Debs v. United States

Citation: 249 U.S. 211 (1919)

Concepts: Clear and Present Danger/Free Speech v. Congressional War Powers

Facts

Eugene V. Debs, a well-known socialist, gave a public speech to an assembly of people in Canton, Ohio. The speech was about the growth of socialism and contained statements which were intended to interfere with recruiting and advocated insubordination, disloyalty, and mutiny in the armed forces. Debs was arrested and charged with violating the Espionage Act of 1917.

Issue

Whether the United States violated the right of freedom of speech given to Debs in the First Amendment of the United States Constitution.

Opinion

The Supreme Court of the United States upheld the lower court's decision in favor of the United States. The Court said that Debs had actually planned to discourage people from enlisting in the Armed Forces. The Court refused to grant him protection under the First Amendment freedom of speech clause, stating that Debs "used words [in his speech] with the purpose of obstructing the recruiting service." Debs' conviction under the Espionage Act would stand, because his speech represented a "clear and present danger" to the safety of the United States.

Schenck v. United States

Citation: 249 U.S. 47 (1919)

Concepts: Clear & Present Danger/Free Speech v. Congressional War Powers

Facts

Charles T. Schenck and Elizabeth Baer, charged with conspiring to print and circulate documents intended to cause insubordination within the military, were convicted of violating the Espionage Act of 1917. The act made it a crime to "willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty in the military ... or to willfully obstruct the recruiting service of the United States." Schenck appealed the conviction to the Supreme Court of the United States, claiming all his actions were protected by the First Amendment.

Issue

Whether Schenck's and Baer's First Amendment right to freedom of speech were violated when they were convicted of conspiring to obstruct the recruitment and enlistment of service.

Opinion

The Court unanimously upheld the conviction of Schenck, not for violation of the Espionage Act, but rather for conspiracy to violate it. The Court found that the First Amendment did not apply in this case, and that Schenck's speech was not constitutionally protected because it posed a "clear and present danger" to the country. The nation was involved in World War I, and the Court saw Schenck's speech and action as counter-productive to the national war effort. The Court reasoned that certain speech could be curtailed, using the example of a situation where one cannot yell "fire" in a crowded theatre.

Schechter Poultry Corp. v. United States

Citation: 295 U.S. 495 (1935) **Concepts:** Congressional Power v. Presidential Power/ Commerce Clause/"Sick Chickens"

Facts
During the Great Depression, President Franklin Delano Roosevelt established an economic recovery program known as the "New Deal." As part of the program, the President established the National Industrial Recovery Act of 1933 (NIRA) which authorized the President to set "codes of fair competition," regulating certain facets of interstate commerce. The Schechter Poultry Corp. bought, slaughtered, and sold chickens only in New York State, although some of the chickens were purchased from other states. Schechter was indicted for disobeying the "live poultry code," one of the codes of fair competition. The government alleged that Schechter failed to observe minimum wage and hour provisions, permitted customers to select individual chickens from particular coops and half-coops, sold unfit and uninspected chickens, and made false reports. Schechter appealed his conviction.

Issue
Whether the National Industrial Recovery Act, which gave the President the authority to regulate certain aspects of commerce during the Depression, was an unconstitutional delegation of presidential power.

Opinion
The Supreme Court of the United States, in a unanimous decision, held that the delegation of power made by the NIRA was unconstitutional. The Court held that Congress has the power to regulate interstate commerce, not the President, and that Congress cannot delegate legislative power to the President. Even the extraordinary conditions of the Depression were not enough for the Court to allow the President to have more power than the Constitution gave him. Schechter's conviction was reversed because its business indirectly affected interstate commerce. The NIRA was declared unconstitutional because it exceeded the commerce power that had been given to Congress by the Constitution.

West Virginia State Board of Education v. Barnette

Citation: 319 U.S. 624 (1943) **Concepts:** Flag Salute/State Rights v. Establishment Clause

Facts
The West Virginia State Board of Education required by state law that all students salute the flag and recite the pledge of allegiance as a part of their daily routine. Students who refused were suspended, declared unlawfully absent, and subject to delinquency proceedings. Parents of such students were also subject to a fine or imprisonment. Several Jehovah's Witnesses, who were citizens of West Virginia, sought from the court an injunction to stop the West Virginia State Board of Education from requiring the pledge and flag salute.

Issue
Whether flag salute ceremonies in the schools violated students' liberties as guaranteed by the First Amendment.

Opinion
The Supreme Court of the United States ruled, 6-3, in favor of Barnette and the other Jehovah's Witnesses. The Court held that the Board of Education could not require daily flag salute and pledge as a condition that students must meet to receive a public education. The Court's ruling provided students "scrupulous protection" of their constitutional liberties as guaranteed by the First Amendment.

Korematsu v. United States

Citation: 323 U.S. 214 (1944)

Concepts: Japanese Relocation/Equal Protection v. Executive Powers

Facts
Between 1941 and 1945, there were strong anti-Japanese feelings in the United States due to the war with Japan. In May 1942, Korematsu, an American citizen of Japanese descent, was convicted in federal court of "knowingly remaining in a designated military area in San Leandro, California." His actions violated Exclusion Order #34 and Executive Order #9066 of 1942, which had been issued to protect the West Coast from acts of espionage and sabotage. The Acts required all Japanese-Americans living in restricted areas to go to inland relocation centers. Korematsu believed the order violated his constitutional rights.

Issue
Whether Executive Order #9066 of 1942, violated Korematsu's Fourteenth Amendment right to equal protection of the law and his Fifth Amendment right to life, liberty, and property; and whether, because of the special circumstance of the world war, Congress or the President had the power to violate Korematsu's constitutional rights.

Opinion
In a rare decision, 6-3, the Supreme Court of the United States ruled that an entire race could be labeled a "suspect classification," meaning that the government was permitted to deny the Japanese their constitutional rights because of military considerations. Because a number of Japanese may have been disloyal, the military felt that complete exclusion of persons of Japanese ancestry from certain areas was essential during wartime. The Court ruled that such exclusion was not beyond the war powers of Congress and the President since their interest in national security was "compelling."

Dennis v. United States

Citation: 341 U.S. 494 (1951)

Concepts: Overthrow of Government/Free Speech v. National Security

Facts
Eugene Dennis was a leader of the Communist Party in the United States between 1945 and 1948. He was arrested in New York for violation of Section 3 of the "Smith Act." The Act prohibited advocation of the overthrow of the United States Government by force and violence. The government felt that the speeches made by Dennis presented a threat to national security. Dennis appealed his conviction to the Supreme Court of the United States, claiming that the Smith Act violated his First Amendment right to free speech.

Issue
Whether the Smith Act violated the First Amendment provision for freedom of speech or the Fifth Amendment due process clause.

Opinion
The Court found that the Smith Act did not violate Dennis' First Amendment right to free speech. Although free speech is a guaranteed right, it is not unlimited. The right to free speech may be lifted if the speech presents a clear and present danger to overthrow any government in the United States by force or violence. Since the speech made by Dennis advocated his position that the government should be overthrown, it represented a clear and present danger to the national security of the United States.

Brown v. Board of Education of Topeka

Citation: 347 U.S. 483 (1954) **Concepts:** School Segregation/Equal Protection v. State Rights

Facts
Four black children sought the aid of the courts to be admitted to the all-white public schools in their community after having been denied admission under laws which permitted racial segregation. The youths alleged that these laws deprived them of the equal protection of the law under the Fourteenth Amendment, even though their all-black schools were equal to the all-white schools with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors.

Issue
Whether segregation of children in public schools denies blacks their Fourteenth Amendment right of equal protection under the law.

Opinion
The Supreme Court of the United States looked not to the "tangible" factors but the effect of segregation itself on public education. The Court decided unanimously that segregation of black children in the public school system was a direct violation of the equal protection clause of the Fourteenth Amendment. It rejected the "separate but equal" doctrine of *Plessy v. Ferguson*, 164 U. S. 537 (1896), and stated that this doctrine had no place in education. According to the Court, even if the facilities were physically equal, the children of the minority group would still receive an inferior education. Separate educational facilities were held to be "inherently unequal."

Watkins v. United States

Citation: 354 U.S. 178 (1957) **Concepts:** Self-Incrimination/ Un-American Activities/Right to Remain Silent v. Congressional Investigation

Facts
Watkins was convicted of violating a federal law that made it a crime for any person summoned as a witness by a congressional committee to refuse to answer any question asked by the committee. He had been summoned to testify before the House Committee on Un-American Activities. He testified about his own activities but refused to answer questions about whether other

persons were members of the Communist Party. Watkins refused to answer the questions because he believed they were outside the scope of the Committee's activities and not relevant to its work.

Issue
Whether Watkins was within his rights to refuse to answer; and whether his conviction was a violation of the due process clause of the Fifth Amendment.

Opinion
The Supreme Court of the United States held that Watkin's conviction was invalid. The Court said that Congress had to spell out its purpose specifically to guarantee that people summoned to testify are treated fairly and given all their rights. The Court held that congressional committees are required to uphold the Bill of Rights and must grant citizens the freedom of speech. Such committees are restricted to the areas of investigation delegated to the committees, and no witness can be made to testify on matters outside those areas.

Yates v. United States

Citation: 354 U.S. 298 (1957)

Concepts: Communist Party/Free Speech v. Congressional Power

Facts
In 1951, fourteen persons were charged with violating the Smith Act for being members of the Communist Party in California. The Smith Act made it unlawful to advocate or organize the destruction or overthrow of any government in the United States by force. Yates claimed that his party was engaged in passive actions and that any violation of the Smith Act must involve active attempts to overthrow the government.

Issue
Whether Yates' First Amendment right to freedom of speech protected his advocating the forceful overthrow of the government.

Opinion
The Supreme Court of the United States said that for the Smith Act to be violated, people must be encouraged to do something, rather than merely to believe in something. The Court drew a distinction between a statement of an idea and the advocacy that a certain action be taken. The Court ruled that the Smith Act did not prohibit "advocacy of forcible overthrow of the government as an abstract doctrine." The convictions of the indicted members were reversed.

Mapp v. Ohio

Citation: 367 U.S. 643 (1961)

Concepts: Warrantless Search/Right to Privacy v. State "Police Powers"

Facts
In May 1957, Cleveland police officers received a tip that Miss Mapp was in possession of a large number of betting slips, and that a bomber was hiding in her home. When the police arrived at her house, Mapp refused to admit them without a search warrant. A few hours later, the police knocked

again, then forcibly opened the door. A struggle ensued and Mapp was put in handcuffs, taken upstairs, and kept there while police searched her apartment. During the search, obscene materials were discovered in a trunk in her basement. Mapp was arrested for possession and control of obscene materials.

Issue
Whether Miss Mapp's Fourth Amendment right to be secure from search and seizure was violated during the search of her home.

Opinion
The Supreme Court of the United States ruled that Mapp's Fourth Amendment right to be secure from search and seizure was violated. The Court held that both the Fourth and Fourteenth Amendments protected persons from unwarranted federal and state intrusion of their private property.

Engel v. Vitale

Citation: 370 U.S. 421 (1962)

Concepts: School Prayer/Establishment Clause v. State Rights

Facts
The Board of Education of New Hyde Park, New York, instructed the schools of their district to have students recite a NYS Regents-composed prayer at the beginning of each school day. Parents of a number of students challenged this policy. They said that the official prayer was contrary to their religious beliefs and that a governmental agency did not have the right to force prayer on students. The parents felt that the prayer violated the First Amendment's separation of church and state provision. The state contended that it was a non-denominational prayer and that the schools did not compel any student to recite it.

Issue
Whether a non-denominational prayer, recited in every classroom in a school district, violated the First Amendment's provision for separation of church and state.

Opinion
The Supreme Court of the United States found that the school district violated the students' First Amendment rights because even though the students did not have to say the prayer, the reciting of the prayer in class would put unwanted pressures on them. Further, this *non-denominational* prayer was found to be too religious for the state to mandate and was in violation of the establishment clause of the First Amendment.

Abington School District v. Schempp

Citation: 374 U.S. 203 (1963)

Concepts: Bible Readings/Reserved Clause v. Establishment Clause

Facts
A Pennsylvania statute required that "at least ten verses from the Holy Bible shall be read at the opening of each public ... school day." A student could be excused from the bible reading with a

written note from a parent or guardian. The Schempp family, who had children in the Abington school system, disapproved of the bible reading because it violated their religious beliefs. The family refused to write a letter to have their children excused, and took legal action to stop the school district from conducting the daily bible readings. The district court ruled in favor of the Schempp family. The school district appealed to the Supreme Court of the United States.

Issue
Whether a state, in creating a statute that promotes prayer in its public school system, is violating the establishment clause of the First Amendment, which states that the government may not establish any religion.

Opinion
The Court declared the law calling for "prayer in school" unconstitutional because it represented an establishment of religion by government. Stating that this was a direct violation of the establishment clause of the First Amendment, the Court prohibited bible readings in public schools.

Gideon v. Wainwright

Citation: 372 U.S. 335 (1963)

Concepts: Right to Counsel/Rights of the Accused v. State Rights

Facts
Clarence Earl Gideon was arrested in 1961, and charged with breaking and entering a pool hall with intent to commit petty larceny (a felony). He did not have enough money for a lawyer and asked that one be appointed to defend him. The judge denied the request, saying that under Florida state law, counsel can be appointed only in a capital offense. Gideon was sentenced to five years in prison. He then filed a writ of certiorari (petition of appeal) to the Supreme Court of the United States, asking for a case review. The Court granted Gideon's request and appointed Abe Fortas to represent him.

Issue
Whether the state of Florida violated Gideon's Sixth Amendment right to counsel, made applicable to the states by the Fourteenth Amendment, by not providing him with the assistance of counsel for his criminal defense.

Opinion
The Court ruled unanimously in Gideon's favor, and held that the Fourteenth Amendment included state as well as federal defendants. The Court said that all states must provide an attorney in all felony and capital cases for people who cannot afford one themselves. Through the Fourteenth Amendment due process clause, the Sixth Amendment guarantee of the right to counsel applies to the states. [Gideon was retried in Florida and found not guilty.]

Escobedo v. Illinois

Citation: 378 U.S. 478 (1964)

Concepts: Right to an Attorney/Self-Incrimination/ Rights of the Accused v. State Rights

Facts

Escobedo was arrested in 1960, in connection with the murder of his brother-in-law. After his arrest, he requested to see his lawyer but was not allowed to do so. After persistent questioning by the police, Escobedo made a statement which was used against him at his trial and he was convicted of murder. He appealed to the Illinois Supreme Court, which affirmed the conviction. Escobedo then appealed to the Supreme Court of the United States.

Issue

Whether the state of Illinois violated Escobedo's Fourteenth Amendment protections, his Fifth Amendment right to remain silent, and his Sixth Amendment right to assistance of counsel by denying his request to speak to a lawyer before questioning.

Opinion

The Court found that the denial by the police of Escobedo's right to counsel and their failure to inform him of his right to remain silent were clearly unconstitutional. Furthermore, the Court held that incriminating statements made by defendants are inadmissible as evidence unless the accused is informed of his rights before making the statements.

Heart of Atlanta Motel, Inc. v. United States

Citation: 379 U.S. 241 (1964)

Concepts: Discrimination/Individual Property Rights v. Congressional Powers/Commerce Clause

Facts

The Civil Rights Act of 1964, passed by the United States Congress, prohibited racial discrimination and segregation in public accommodations. The owner of the Heart of Atlanta Motel refused accommodations to blacks and filed suit, claiming that such control over an individual's business was not within the powers of Congress.

Issue

Whether the United States Congress, under its authority to regulate interstate commerce, has the power to require private businesses within a state to comply with the Civil Rights Act of 1964, which prevents discrimination in places of public accommodations.

Opinion

The Supreme Court of the United States held that the Civil Rights Act of 1964 was constitutional. The Court said that the commerce clause of the Constitution empowers Congress to regulate both commercial and non-commercial interstate travel. Since the motel served inter state travelers, its refusal to accommodate blacks posed a potential obstruction to their freedom of movement across state lines. Congress has a right to regulate individual businesses in the interest of promoting interstate travel.

Miranda v. Arizona

Citation: 384 U.S. 436 (1966) **Concepts:** Self-Incrimination/Rights of the Accused v. State "Police Powers"

Facts
Ernesto Miranda was convicted of rape and kidnapping. His conviction was based in part on incriminating statements he made to the police while they interrogated him. At no time during the questioning did the police inform Miranda that he did not have to talk to them or that he had the right to a lawyer when being questioned by police.

Issue
Whether the state of Arizona violated the constitutional rights of Miranda under the Fifth, Sixth, and Fourteenth Amendments when they interrogated him without advising him of his constitutional right to remain silent.

Opinion
The Supreme Court of the United States, in a 5-4 decision, ruled that the police were in error. The Court held that the police must inform suspects that they have the right to remain silent, that anything they say may be used against them, and that they have the right to counsel before the police may begin to question those held in custody.

[*Miranda* established the "Miranda Warning" which police now use prior to interrogation of persons arrested.]

Epperson v. Arkansas

Citation: 393 U.S. 97 (1968) **Concepts:** Teaching of Evolution/Establishment Clause v. State Rights

Facts
An Arkansas statute forbade teachers in public schools from teaching the "theory or doctrine that mankind ascended or descended from a lower order of animals." A teacher determined that the law was invalid and lost her job for violating it. The Supreme Court of the United States was called in to review this statute which made it unlawful for teachers in state schools to teach human evolution.

Issue
Whether the Arkansas statute that prohibited the teaching of evolution violated the establishment clause of the First Amendment and the equal protection clause of the Fourteenth Amendment of the Constitution because of its religious purpose.

Opinion
The Court held that the Arkansas statute forbidding the teaching of evolution in public learning institutions was contrary to the freedom of religion mandate of the First Amendment, and was also in violation of the Fourteenth Amendment. The Court ruled that a state may not eliminate ideas from a school's curricula solely because the ideas come in conflict with the beliefs of certain

religious groups. In this case, the law that compelled the evolution doctrine to be removed from the course of study was passed to agree with the religious point-of-view of certain fundamentalists. Thus, the reason for removing the doctrine was to aid a religious point-of-view and, therefore, was violative of the First Amendment. The Court said that the law must require religious neutrality.

Green v. County School Board of New Kent County, Va.

Citation: 391 U.S. 430 (1968)

Concepts: Desegregation/Equal Protection v. State Rights

Facts

A small school district with two high schools and a fifty percent ratio black and white student population adopted a "freedom of choice" plan whereby students could choose their own public school. Based on "free choice," black and white students segregated themselves. Green protested, claiming that the "freedom of choice" plan created a segregated school community instead of an integrated one.

Issue

Whether the district's "freedom of choice" plan, resulting in a segregated school community, violated the Fourteenth Amendment and the mandate of the Supreme Court of the United States established under the *Brown v. Board of Education of Topeka* (1954) decision.

Opinion

The Court unanimously decided in favor of Green. The Court noted that the first major school desegregation decision, *Brown*, held that segregated schools were inherently unequal. The Court held that the district's "freedom of choice" plan did not and would not bring about desegregation. The Court emphatically placed on the School Board of New Kent the burden of formulating a desegregation plan that would immediately and realistically achieve integration in its schools.

[*Green* is important because it set in motion the direction the federal district courts took during the 1970's, in ordering busing and other affirmative desegregation steps so that a non-racial system of public education could be achieved.]

Tinker v. Des Moines School District

Citation: 393 U.S. 503 (1969)

Concepts: Symbolic Speech/Students' Right to Free Speech v. State Rights

Facts

In December 1965, Marybeth and John Tinker planned to wear black armbands to school signifying their protest of the Vietnam War. School officials became aware of the plan beforehand and adopted regulation banning the wearing of such armbands. Failure to comply with this regulation would result in suspension until the student returned to school without the armbands. Both Tinkers went ahead and wore the black armbands to school. They were suspended and told not to return with the armbands. The Tinkers claimed that their rights of free speech and expression, which are protected under the First Amendment of the Constitution of the United States, had been violated, and that they should have been allowed to attend school wearing the armbands.

Issue
Whether Marybeth and John Tinker have a First Amendment right to free speech to wear black armbands as a symbol of protest in a public school.

Opinion
The Court decided that the students did have a right to wear the armbands. It reasoned that the wearing of the armbands was an exercise of the students' right to free, silent, *symbolic* speech, which is protected under the First Amendment: "Students do not shed their constitutional rights at the schoolhouse gate, and therefore are entitled to the free expression of their views as long as there is no *substantial* or *material* interference of the educational process."

Oregon v. Mitchell

Citation: 400 U.S. 112 (1970)

Concepts: Right to Vote/State Rights v. Equal Protection

Facts
Several states challenged the Federal Voting Rights Act Amendments of 1970, which lowered the right to vote to age 18, expanded bans on literacy tests, and prohibited application of state durational residency requirements in presidential elections.

Issue
Whether Congress could grant 18-year-olds the right to vote in federal and state elections.

Opinion
The Court ruled to sustain the Voting Rights Act Amendments with respect to federal elections, but struck it down with respect to state elections.

[This decision was handed down on December 21, 1970. Three months later, Congress submitted the Twenty-Sixth Amendment to the states for ratification. On June 30, 1971, the states ratified the Twenty-Sixth Amendment which provided 18-year-olds the right to vote in all state and federal elections.]

New York Times Co. v. United States

Citation: 403 U.S. 713 (1971)

Concepts: Pentagon Papers/Free Press v. Executive Power

Facts
The United States wanted to restrain the *New York Times* and the *Washington Post* newspapers from publishing a classified study on Vietnam policy entitled, "History of United States Decision Making Process on Vietnam Policy," commonly called "Pentagon Papers."

Issue
Whether the President of the United States had the power to stop the publication of historical news that might have an impact on the Vietnam War.

Opinion
The Supreme Court of the United States said that prior restraints (prohibiting information from being published or aired) are almost never valid. The Government must strongly justify any abridgement of a newspaper's freedom of speech. Since, in the eyes of the Court, national security was not threatened by the printing of the "Pentagon Papers," no prior restraint was necessary and the Government's attempt at censorship was unconstitutional.

P.A.R.C. v. Commonwealth of Pennsylvania

Citation: 334 F.Supp. 1257 (D.C., D.C.,1971) **Concepts:** Education for the Handicapped/ Equal Protection v. State Rights

Facts
Several parents of mentally retarded children who were not getting an education brought a class action suit (under the Pennsylvania Association for Retarded Children) on behalf of all mentally retarded persons who lived in Pennsylvania and who had been denied access to a free public education program appropriate to the individual student's capacity.

Issue
Whether the Commonwealth of Pennsylvania's denial of educational treatment for the mentally retarded violated the equal protection rights under the Fourteenth Amendment.

Opinion
The U.S. District Court found that mentally retarded persons are capable of benefitting from education and/or training. They can, with the state's help, achieve self-sufficiency or self care. Pennsylvania, having undertaken to provide a free education to all of its children, must provide mentally retarded children an educational program that will meet their needs. Educational programs should take place, when possible, in a regular public school classroom.

Swann v. Charlotte-Mecklenburg County Board of Education

Citation: 402 U.S. 1 (1971) **Concepts:** Busing/School Desegregation

Facts
In *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the Supreme Court of the United States ruled that racial segregation in public schools was unconstitutional. *Swann* deals with how school districts such as the Charlotte-Mecklenburg School District in North Carolina may restructure their attendance zones to comply with the *Brown* decision. The Charlotte-Mecklenburg Board of Education proposed a plan that involved busing students to balance the ratio of black to white students in its schools.

Issue
Whether forced busing and a restructured school system are methods of complying with the integration demands set forth in *Brown*.

Opinion
In a unanimous decision, the Court stated that changing attendance zones and busing students

to various schools to create racial balance within the schools are acceptable solutions to the problem of segregated school systems. Only when a child's health or education might be significantly hurt by busing, should it be banned. The Court said "a school district has broad powers to fashion a remedy that will assure a unitary school system."

Mills v. Board of Education of District of Columbia

Citation: 348 F. Supp. 866 (1972) **Concept:** Education for Exceptional Children
Equal Protection v. State Rights

Facts
Seven children of school age were denied education because they were mentally retarded, emotionally disturbed, hyperactive, or had behavioral problems. The Board of Education did not provide schooling for these exceptional children, violating controlling statutes and their own board regulations. It was also estimated that 18,000 similar "exceptional" children in the Washington, D.C., area were not in school. The D.C. school system admitted that it had failed its duty to provide these children with publicly supported education suited to their individual needs. It also had failed to provide prior hearings and periodic reviews of each exceptional student case.

Issue
Whether the Board of Education's failure to provide schooling, hearings, and periodic reviews for "exceptional" children violated the children's equal protection and due process rights of the Fourteenth Amendment.

Opinion
The Supreme Court of the United States said that the Board of Education of the District of Columbia violated such rights as due process and certain statutes and regulations. The Court held that the Board of Education must provide public schooling for the exceptional children, along with a hearing beforehand to decide whether the child was exceptional. A plan was devised to adopt due process hearing procedures similar to that which the children requested. The Court said that the Board of Education had an obligation to provide whatever specialized instructions were needed to benefit the children, and that every child between the ages of seven and sixteen shall be provided regular instructions. No child eligible for public education should be excluded from school unless an adequate alternative suited to the child's needs was provided.

Roe v. Wade

Citation: 410 U.S. 113 (1973) **Concepts:** Abortion/Right of Privacy v. State

Facts
A Texas woman sought to terminate her pregnancy. However, a Texas law made it a crime to procure or attempt an abortion except when the mother's life would be in danger if she remained pregnant. Ms. Roe challenged the Texas law on the grounds that the law violated her right of personal liberty given in the Fourteenth Amendment and her right to privacy protected by the Bill of Rights.

Issue
Whether state law which bans or regulates abortion violates a woman's right to privacy or personal choice in matters of family decisions or marriage.

Opinion
The Supreme Court of the United States decided that states could regulate abortions only in certain circumstances but otherwise women did have a right to privacy and reproductive autonomy. The Court divided a woman's pregnancy into three time periods: 1) during the first trimester(the first three months of pregnancy), states may not interfere with a woman's decision to have an abortion; 2) during the second trimester, states could regulate abortions, but only if such regulation was reasonably related to the mother's health; and, 3) during the third trimester, which occurs after the fetus (unborn child) reaches viability (the stage at which it can survive outside the mother's body), states may regulate absolutely and ban abortions altogether in order to protect the unborn child. The woman's right to privacy was held to be a fundamental right which could only be denied if a compelling state interest existed. Once the fetus reaches a "viable" stage of development, such a compelling point is reached because the unborn child is now given constitutional protection.

United States v. Nixon

Citation: 418 U.S. 683 (1974)

Concepts: Watergate/Federal Due Process v. Executive Privilege

Facts
In the late 1970's, the Democratic National Headquarters at the Watergate Office Building in Washington, D.C., was broken into. The investigation that followed centered on staff members of then Republican President Richard M. Nixon. The Special Prosecutor subpoened certain tapes and documents of specific meetings held in the White House. The President's lawyer sought to deny the subpoena. The Special Prosecutor asked the Supreme Court of the United States to hear the case before the lower appeals court ruled on the President's appeal to deny the subpoena.

Issue
Whether the United States violated President Nixon's constitutional right of executive power, his need for confidentiality, his need to maintain the separation of powers, and his executive privilege to immunity from any court demands for information and evidence.

Opinion
By an 8-0 vote, the Court decided that President Nixon must hand over the specific tapes and documents to the Special Prosecutor. Presidential power is not above the law. It cannot protect evidence that may be used in a criminal trial.

Goss v. Lopez

Citation: 419 U.S. 565 (1975)

Concepts: Suspension/State Rights v. Students' Due Process

Facts
Several public high school students (including D. Lopez) were suspended from school for misconduct but were not given a hearing immediately before or after their suspension. School

authorities in Columbus, Ohio, claimed that a state law allowed them to suspend students for up to ten days without a hearing. The students brought a legal action, claiming that the statute was unconstitutional because it allowed school authorities to deprive students of their right to a hearing, violating the due process clause of the Fourteenth Amendment.

Issue
Whether the suspension of a student for a period of up to ten days without a hearing constitutes a violation of the due process clause of the Fourteenth Amendment.

Opinion
The Supreme Court of the United States said that education is a property interest protected by the Fourteenth Amendment's due process clause and any suspension requires prior notice and a hearing. Permitting suspension without a hearing is, therefore, unconstitutional. The Court said that oral or written notice of the charges brought against a student must be given to the student who is being suspended for more than a trivial period. If he denies the charges, the student must be given a hearing. The hearing may be an informal one where the student is simply given an explanation of the evidence against him and an opportunity to tell his side of the story.

University of California Regents v. Bakke

Citation: 438 U.S. 265 (1978)

Concepts: Affirmative Action/State Rights v. Equal Protection

Facts
Allan Bakke, a white male, applied to the University of California at Davis Medical School. He was denied admission because he did not meet the standard entrance requirements. Davis Medical School also had a special admissions program for minorities. Sixteen per cent of the available places were reserved for minorities who did not meet the standard entrance requirements. Bakke argued that the requirements for special admissions to the medical school were discriminatory because only black, Chicano, and Asian students could compete for these places. The University of California argued that its special admissions program remedied the long standing historical wrong of racial discrimination.

Issue
Whether the University's special admissions program, which accepted minority students with significantly lower scores than Bakke, violated Bakke's Fourteenth Amendment equal protection rights; and whether the University was permitted to take race into account as a factor in its future admissions decisions.

Opinion
The Supreme Court of the United States did not render a majority opinion in this case (i.e., one in which five or more of the nine justices agree). Six separate opinions were written, and no more than four justices agreed in whole in their reasoning. The Court ordered Bakke's admission to Davis Medical School and invalidated the University's special admissions program because the program barred people like Bakke from applying for the special admissions seats in the medical school. However, of much greater significance was the fact that the Court allowed institutions of higher learning to take race into account as a factor in their future admissions decisions. Justices

Brennan, White, Marshall, and Blackman said that this aspect was the central meaning of the case: "Government may take race into account when it acts not to insult any racial group but to remedy disadvantages cast on minorities by past racial prejudice."

[While to some observers Bakke won a place in the school and the particular special admissions program at Davis was invalidated, the case really stands as a landmark civil rights-affirmative action decision. Race may now be taken into account as a factor in college admissions.]

Board of Education, Island Trees School District v. Pico

Citation: 457 U.S. 853 (1982)

Concepts: Book Banning/Reserved Clause v. First Amendment

Facts

The Board of Education of the Island Trees School District in New York directed the removal of nine books from the libraries of the Island Trees senior and junior high schools because in the Board's opinion the books were "anti-American, anti-Christian, anti-Semitic, and just plain filthy." Some books included were: *The Fixer, Soul on Ice, Slaughterhouse Five, Go Ask Alice, The Best Stories by Negro Writers*, and others. Four students from the high school and one from the junior high school sued the school district, claiming that the removal of the books was a violation of the First Amendment's guarantee of freedom of speech.

Issue

Whether the First Amendment limits a local school board's discretion to remove library books from senior and junior high school libraries.

Opinion

The Supreme Court of the United States ruled in favor of the students, saying that the books were not required reading. According to Justice Brennan, who cited *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943), "Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in these books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." He also cited *Tinker v. Des Moines School District*, 393 U.S. 503 (1969), saying that high school students have First Amendment rights in the classroom. Although the schools have a right to determine the content of their libraries, they may not interfere with a student's right to learn. Therefore, the schools may not control their libraries in a manner that results in a narrow, partisan view of certain matters of opinion. The Court stood against the removal or suppression of ideas in schools.

New Jersey v. T.L.O.

Citation: 469 U.S. 325 (1985)

Concepts: Search & Seizure/State Rights v. Students' Due Process

Facts

In 1980, a teacher at Piscataway High School, New Jersey, discovered two girls smoking in the lavatory. Since smoking was a violation of a school rule, the two students, T.L.O. and a companion, were taken to the principal's office. There they met with the assistant vice-principal who demanded

to see T.L.O.'s purse. Upon opening the purse, he found cigarettes and cigarette rolling paper. He proceeded to look through the purse and found marijuana, a pipe, plastic bags, money, lists of names, and two letters that implicated her in drug dealing. T.L.O. argued the search of her purse was unconstitutional.

Issue
Whether the state of New Jersey and its agent, the assistant vice-principal, violated T.L.O.'s Fourth Amendment right of protection from "unreasonable search," her Fifth Amendment right of protection from self-incrimination, and her right to due process as provided in the Fourteenth Amendment.

Opinion
The Supreme Court of the United States held for the school and its assistant vice-principal. The Court reasoned that to maintain discipline in school, the school officials who have "reasonable suspicion" that a student has done something wrong can conduct a reasonable search of the suspicious student. A school's main objective is to educate students in a legal, safe learning environment. Police need "probable cause," a higher standard, to search people, places, and things. School officials, unlike the police, need only "reasonable suspicion" to search students when they believe unlawful conduct is occurring.

Wallace v. Jaffree

Citation: 472 U.S. 38 (1985)

Concepts: Moment of Silence/State Rights v. Establishment Clause

Facts
The parents of three children attending public school in Alabama challenged the constitutionality of an Alabama law which authorized a one minute period of silence in all public schools for meditation or voluntary prayer.

Issue
Whether the Alabama law requiring a one minute silence period encouraged a religious activity in violation of the First Amendment establishment clause.

Opinion
The Supreme Court of the United States held that the Alabama law was a law respecting the establishment of religion and thus violated the First Amendment. The Court said that the First Amendment was adopted to limit the power of Congress to interfere with a person's freedom to believe, worship, and express himself as his conscience tells him. The Amendment gives an individual the right to choose a religion without having to accept a religion established by the majority or by government.

The Court said that government must be completely neutral toward religion and not endorse any religion. Therefore, statutes like the Alabama law requiring one minute for silence in the schools must have a secular or non-religious purpose to be within the Constitution. Since Senator Holmes, who was the primary sponsor of the bill, testified "that the bill was an effort to return voluntary prayer to our public schools," the Court decided that the purpose of the Alabama law was to endorse

religion and was solely an effort to return voluntary prayer to the public schools. It was, therefore, struck down as being inconsistent with the Constitution.

Hazelwood School District v. Kuhlmeier

Citation: 484 U.S._, 108 S.Ct. 562 (1988)

Concepts: Censorship/State Rights v. Students' Free Press Rights

Facts

Kathy Kuhlmeier and two other journalism students wrote articles on pregnancy and divorce for their school newspaper. Their teacher submitted page proofs to the principal for approval. The principal objected to the articles because he felt that the students described in the article on pregnancy, although not named, could be identified, and the father discussed in the article on divorce was not allowed to respond to the derogatory article. The principal also said that the language used was not appropriate for younger students. When the newspaper was printed, two pages containing the articles in question as well as four other articles approved by the principal were deleted.

Issue

Whether the Hazelwood School District violated the freedom of expression right of the First Amendment by regulating the content of its school newspaper.

Opinion

The Supreme Court of the United States held that the Hazelwood School District did not violate the First Amendment right of the students. The Court ruled that although schools may not limit the personal expression of students that happens to occur on school grounds, *Tinker v. Des Moines*, 393 U.S. 503 (1969), they do not have to promote student speech that they do not agree with. This decision gave schools the power to censor activities such as school plays and school newspapers as long as the school finances the activities and there are grounds for the censorship. The Court said in *Tinker* that in order to censor a student's expression, the expression must substantially disrupt the school's educational process, or impinge upon the rights of others. This case broadened that guideline to include censorship of unprofessional, ungrammatical or obscene speech, or speech that goes against the fundamental purpose of a school.

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West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943), p. 13
**Yates v. United States*, 354 U.S. 298 (1957), p. 16

**Case Cited in 11th Grade U.S. History & Government Syllabus.*

APPENDIX A

Answers to Pre-Post Evaluation Quiz

Format: Written Certiorari Brief

Glossary

ANSWERS TO PRE-POST EVALUATION OF CONSTITUTIONAL CASEBOOK

SECTION A: MULTIPLE CHOICE:

DIRECTIONS: In the Answer Section below, Place the letter a, b, c, or d that best answers the multiple choice question.

1. The Supreme Court of the United States is a: **a.** Trial Court **b.** Court of Claims **c.** District Court **(d.)** Appeals Court.

2. Supreme Court Justices can offer what kind of an opinion in a case before them?
   a. Dissenting Opinion **b.** Concurring Opinion **c.** Majority Opinion **(d.)** All of the Preceding.

3. A Supreme Court Justice serves for: **(a.)** Life (If he or she wants) **b.** Only 8 Years **c.** 13 Years **d.** 6 Years.

4. In *Brown v. Board of Education* (1954), the Court decided to: **a.** Improve Textbooks **(b.)** Desegregate Our Schools **c.** Establish Free Public Schools **d.** Provide for "Separate But Equal" Schools.

5. In *Korematsu v. United States* (1944), the Court upheld the relocation of what group of people to inland relocation camps: **a.** German Americans **b.** Italian Americans **(c.)** Japanese Americans **d.** Jewish Americans.

6. In *Dennis v. United States* (1951), the Supreme Court of the United States upheld the conviction of members of what party for advocating the forceful overthrow of the American Government: **a.** Republican Party **b.** Democratic Party **c.** Liberal Party **(d.)** Communist Party.

7. In *Roe v. Wade* (1973), the Court dealt with what women rights issue: **a.** Equal Job/Equal Pay **(b.)** Abortion **c.** Sex Discrimination **d.** Maternity Leave.

8. In *Schechter v. United States* (1935), Congress exceeded its power to regulate the flow of which commerce:
   a. Wheat **b.** Steel **(c.)** Sick Chickens **d.** Endangered Species.

9. In *Santa Clara County v. Southern Pacific Railroad Co.* (1886), the Court ruled the equal protection clause of the Fourteenth Amendment applied to: **(a.)** Corporations **b.** Unions **c.** People **d.** Railroad Workers.

10. In *Schenck v. United States* (1919), the Court ruled freedom of speech and press may be constrained if it:
    a. Is Obscene **b.** Is disruptive **(c.)** Creates a Clear and Present Danger **d.** Is Funny.

11. In *Watkins v. United States* (1957), the Court ruled that congressional investigations must: **a.** Aid their Legislative Functions **b.** Be Pertinent to the Subject Under Investigation **c.** Spell Out their Purpose **(d.)** All of the Above.

12. In *Lochner v. New York* (1905), the Court struck down a New York State law which limited: **a.** Car Insurance **b.** Safety Requirements **c.** How a Bakery Could Open on Sunday **(d.)** Hours a Person Could Work.

13. In *Ex Parte Merryman* (1861), President Lincoln suspended the constitutional protection of writs of habeas corpus because: **a.** They Were Bad Law **(c.)** They Interfered With the Civil War Effort **b.** They Violated Human Rights **d.** They Were Outdated.

14. In *P.A.R.C. v. Penn* (1971), the Court ordered, through a consent agreement, that schools must provide:
    (a.) Appropriate Public Education for Mentally Retarded Children **c.** Smaller Class Sizes
    b. Teachers With Free Time During the School Day **d.** Free Hot Lunches for All Students.

15. In *Munn v. Illinois* (1877), the Court held private property reserved for public use was subject to:
    a. No Regulations **(b.)** Government Regulations **c.** Public Sale **d.** Amicus Curiae.

SECTION B: ANSWERS:

1. __D__	4. __B__	7. __B__	10. __C__	13. __C__
2. __D__	5. __C__	8. __C__	11. __D__	14. __A__
3. __A__	6. __D__	9. __A__	12. __D__	15. __B__

FORMAT

FOR WRITING A CERTIORARI BRIEF

[Brief Should Be Limited to One Page.]

CASE TITLE

[Title Should Include Citation # and Year of Case.]

FACTS:

State the facts of your case, giving a well-phased overview of what actually happened.

Please include information you consider vital to the case and make sure you include historical information which demonstrates your knowledge of what was going on in America at the time your case came about.

Use no more than 6-7 lines.

ISSUE:

Identify the constitutional issues. Make sure you write it so that it represents either petitioner's or respondent's constitutional point-of-view. Use proper constitutional language in your statement.

Begin the ISSUE statement with the word *Whether.*

(Use no more than 2-3 lines.)

CASE PRECEDENTS:

If possible, list previous cases that might pertain to this case.

OPINION:

In your own words, where do you stand? What are you trying to convince the Court to rule? Give a strong plea to the Bench to support your point of view.

GLOSSARY

ABRIDGE	Shorten.
ABRIDGEMENT	Reduced version of the original.
ADVOCATE	Defend and support something; offer legal assistance.
AFFIRM	Declare something is TRUE; to support a decision from a lower court.
AFFIRMATIVE	Agree with or accept.
ANTI-SEMITIC	Hostility directed against Jews.
ASCEND	Rise.
CAPITAL OFFENSE	Crime punishable by the death penalty.
CERTIORARI	Written order from an appellate court for the lower court to send the appeals court the records of a case.
COMPELLING	Convincing.
CONGRESSIONAL POWER	Power given to the Senate and House of Representatives to create and enact laws.
CONTEMPT OF COURT	Disobedience or disrespect of a court, judge, or legislative body.
CONTRARY	Opposing or opposite view.
CURRICULUM	Educational plan which outlines subject matter to be taught in school.
DEROGATORY	Belittling or making fun of something or someone.
DESCEND	Go down from a high degree.
DIGNIFIED	Having character; often admired.
DISCRIMINATION	Act of not treating everyone alike, because of their social or economic class, or race.
DOCTRINE	Principle of law established through past decisions.
DUE PROCESS	Constitutional right which guarantees everyone fair treatment by the law.
EMPHATICALLY	Said or done with emphasis.
EQUIVALENT	Divided in same amounts.

ESTABLISHMENT CLAUSE	Found in First Amendment. Denies Congress the right to make laws respecting any religion.
EXCLUDE	Shut out.
EXECUTIVE PRIVILEGE	Privileges and powers granted to the President of the United States.
EXORBITANT	Going beyond what is expected; excessive.
EX PARTE	An action brought by one person without opposition.
IMMIGRANT	Someone who is not a native.
INADMISSIBLE	Not allowed in.
INCRIMINATING	That which indicates guilt.
INFERIOR	Not as good.
INFRINGEMENT	Violation of a law, regulation, or right.
INHERENTLY UNEQUAL	Existing only to be unequal.
INJUNCTION	Legal process issued by a court requiring a person to refrain from doing, or from continuing to do, a certain act.
INSUBORDINATE	Unwilling to submit to authority.
INTERROGATED	To be asked questions.
INTERSTATE	Between two or more states.
INTRASTATE COMMERCE	Commerce within a state.
JUDICIAL REVIEW	Review of proceedings that have taken place in a court.
LIBEL	Any false written statement tending to ruin a reputation.
MONOPOLY	Commodity completely controlled by a person or group of persons.
MUTINY	Revolt against someone or something of authority.
NATIONALISM	A love and pride of one's country.
NON-DENOMINATIONAL	No religious affiliation.
OBSTRUCTING	Blocking or hindering.
PERMISSIBLE	Permitted or allowed.

PETTY LARCENY	Taking of property of small value; usually a misdemeanor.
REASONABLENESS	Neither extreme nor excessive.
RESTRAINTS	Limitations; holding back from action.
SABOTAGE	Willful destruction of war or national defense material.
SEGREGATION	Separation of races.
SEPARATE BUT EQUAL	Phrase which implied that it was acceptable to segregate races provided that the races are treated equally.
SEPARATION OF CHURCH AND STATE	Guidelines set up to keep religion out of government and insure equal treatment of the people.
SOCIALISM	Economic and political theories advocating collective or governmental ownership of the means of production.
STATUTE	Law enacted by the legislative branch of the government.
SUBORDINATE	Place in a lower class or rank.
SUBSTANTIAL	Solid; firm; having real properties.
SUBSTANTIVE	Having a real existence; actual.
SUBSTANTIVE DUE PROCESS	Freedoms, legal process, and equal opportunity guaranteed all persons in the United States.
SUPPRESSION	Act of holding back.
TANGIBLE	Having physical form; can be touched and seen.
TREASON	Act committed against one's country.
TRIVIAL	Of little worth.
UNANIMOUSLY	Everyone agreeing.
UN-CONSTITUTIONAL	That which is in violation of a law or right stated in the Constitution of the United States.
UNITARY	Having to do with a single thing.
VAGUE	Unclear.
WRIT	Formal document.
WRIT OF HABEAS CORPUS	Document obtained by a lawyer demanding a defendant be formally charged or released from arrest.

APPENDIX B

THE CONSTITUTION

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three. Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Ex-

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piration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of Chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases,

except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the Credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the

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Choice of the President, the Person having the greatest Number of Votes of Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either

of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

SECTION 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction; —to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, snall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the

Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.*

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names. [Signatures omitted.]

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

* By July 26, 1788, eleven states had ratified the Constitution. On September 13, 1788, the Continental Congress (which had continued to function at irregular intervals) passed a resolution to put the new Constitution into operation. The first Wednesday, or January 17, 1789, was fixed as the day for choosing presidential electors, the first Wednesday of February for the meeting of electors, and the first Wednesday of March, i. e., March 4, 1789, for the opening of the new Congress.—Ed.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI [1798]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

AMENDMENT XII [1804]

The Electors shall meet in their respective states and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of

the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

AMENDMENT XIII [1865]

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV [1868]

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be

reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slaves; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV [1870]

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI [1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVII [1913]

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XVIII [1919]

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SECTION 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX [1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XX [1933]

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

AMENDMENT XXI [1933]

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2. The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XXII [1951]

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

AMENDMENT XXIII [1961]

SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV [1964]

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXV [1967]

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

AMENDMENT XXVI [1971]

SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.